

JS 44C/SDNY
REV. 4/2014

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS
Diego B. FernandezDEFENDANTS
Philadelphia Indemnity Insurance CompanyATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
George J. Calcagnini
376 Route 202
Somers, NY 10589
914-277-2255ATTORNEYS (IF KNOWN)
Christopher T. Bradley
Marshall Conway & Bradley, PC
45 Broadway, Suite 740
New York, NY 10006 (Telephone No. 212-619-4444)CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 USC 1446 et. seq. (Diversity Jurisdiction); Breach of Contract

Has this action, case, or proceeding, or one essentially the same been previously filed in SDNY at any time? No ☒ Yes ☐ Judge Previously AssignedIf yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date _____ & Case No. _____

IS THIS AN INTERNATIONAL ARBITRATION CASE?

No ☒Yes ☐

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

TORTS		ACTIONS UNDER STATUTES			
CONTRACT	PERSONAL INJURY	PERSONAL INJURY	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 INSURANCE	<input type="checkbox"/> 310 AIRPLANE	<input type="checkbox"/> 367 HEALTHCARE/	<input type="checkbox"/> 625 DRUG RELATED	<input type="checkbox"/> 422 APPEAL	<input type="checkbox"/> 375 FALSE CLAIMS
<input type="checkbox"/> 120 MARINE	<input type="checkbox"/> 315 AIRPLANE PRODUCT	<input type="checkbox"/> PHARMACEUTICAL PERSONAL	<input type="checkbox"/> SEIZURE OF PROPERTY	<input type="checkbox"/> 28 USC 158	<input type="checkbox"/> 400 STATE
<input type="checkbox"/> 130 MILLER ACT	<input type="checkbox"/> LIABILITY	<input type="checkbox"/> INJURY/PRODUCT LIABILITY	<input type="checkbox"/> 21 USC 881	<input type="checkbox"/> 423 WITHDRAWAL	<input type="checkbox"/> REAPPORTIONMENT
<input type="checkbox"/> 140 NEGOTIABLE	<input type="checkbox"/> 320 ASSAULT, LIBEL &	<input type="checkbox"/> 365 PERSONAL INJURY	<input type="checkbox"/> 690 OTHER	<input type="checkbox"/> 28 USC 157	<input type="checkbox"/> 410 ANTITRUST
<input type="checkbox"/> 150 RECOVERY OF	<input type="checkbox"/> SLANDER	<input type="checkbox"/> PRODUCT LIABILITY			<input type="checkbox"/> 430 BANKS & BANKING
<input type="checkbox"/> OVERPAYMENT &	<input type="checkbox"/> 330 FEDERAL	<input type="checkbox"/> 368 ASBESTOS PERSONAL			<input type="checkbox"/> 450 COMMERCE
<input type="checkbox"/> ENFORCEMENT	<input type="checkbox"/> EMPLOYERS'	<input type="checkbox"/> INJURY PRODUCT			<input type="checkbox"/> 460 DEPORTATION
<input type="checkbox"/> OF JUDGMENT	<input type="checkbox"/> LIABILITY	<input type="checkbox"/> LIABILITY			<input type="checkbox"/> 470 RACKETEER INFLU-
<input type="checkbox"/> 151 MEDICARE ACT	<input type="checkbox"/> 340 MARINE	PERSONAL PROPERTY		PROPERTY RIGHTS	<input type="checkbox"/> ENCED & CORRUPT
<input type="checkbox"/> 152 RECOVERY OF	<input type="checkbox"/> 345 MARINE PRODUCT	<input type="checkbox"/> 370 OTHER FRAUD		<input type="checkbox"/> 820 COPYRIGHTS	<input type="checkbox"/> ORGANIZATION ACT
<input type="checkbox"/> DEFAULTED	<input type="checkbox"/> LIABILITY	<input type="checkbox"/> 371 TRUTH IN LENDING		<input type="checkbox"/> 830 PATENT	<input type="checkbox"/> (RICO)
<input type="checkbox"/> STUDENT LOANS	<input type="checkbox"/> 350 MOTOR VEHICLE			<input type="checkbox"/> 840 TRADEMARK	<input type="checkbox"/> 480 CONSUMER CREDIT
<input type="checkbox"/> (EXCL VETERANS)	<input type="checkbox"/> 355 MOTOR VEHICLE				<input type="checkbox"/> 490 CABLE/SATELLITE TV
<input type="checkbox"/> 153 RECOVERY OF	<input type="checkbox"/> PRODUCT LIABILITY			SOCIAL SECURITY	<input type="checkbox"/> 850 SECURITIES/
<input type="checkbox"/> OVERPAYMENT	<input type="checkbox"/> 360 OTHER PERSONAL	<input type="checkbox"/> 380 OTHER PERSONAL	LABOR	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> COMMODITIES/
<input type="checkbox"/> OF VETERAN'S	<input type="checkbox"/> INJURY	<input type="checkbox"/> PROPERTY DAMAGE	<input type="checkbox"/> 710 FAIR LABOR	<input type="checkbox"/> 862 BLACK LUNG (923)	<input type="checkbox"/> EXCHANGE
<input type="checkbox"/> BENEFITS	<input type="checkbox"/> 362 PERSONAL INJURY -	<input type="checkbox"/> 385 PROPERTY DAMAGE	<input type="checkbox"/> STANDARDS ACT	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	
<input type="checkbox"/> 160 STOCKHOLDERS	<input type="checkbox"/> MED MALPRACTICE	<input type="checkbox"/> PRODUCT LIABILITY	<input type="checkbox"/> 720 LABOR/MGMT	<input type="checkbox"/> 864 SSID TITLE XVI	<input type="checkbox"/> 890 OTHER STATUTORY
<input type="checkbox"/> SUITS			<input type="checkbox"/> RELATIONS	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> ACTIONS
<input type="checkbox"/> 190 OTHER	ACTIONS UNDER STATUTES	PRISONER PETITIONS	<input type="checkbox"/> 740 RAILWAY LABOR ACT		<input type="checkbox"/> 891 AGRICULTURAL ACTS
<input type="checkbox"/> CONTRACT	CIVIL RIGHTS	<input type="checkbox"/> 463 ALIEN DETAINEE	<input type="checkbox"/> 751 FAMILY MEDICAL	FEDERAL TAX SUITS	
<input type="checkbox"/> 195 CONTRACT	<input type="checkbox"/> 440 OTHER CIVIL RIGHTS	<input type="checkbox"/> 510 MOTIONS TO	<input type="checkbox"/> LEAVE ACT (FMLA)	<input type="checkbox"/> 870 TAXES (U.S. Plaintiff or	<input type="checkbox"/> 893 ENVIRONMENTAL
<input type="checkbox"/> PRODUCT	<input type="checkbox"/> (Non-Prisoner)	<input type="checkbox"/> VACATE SENTENCE	<input type="checkbox"/> 790 OTHER LABOR	<input type="checkbox"/> Defendant)	<input type="checkbox"/> MATTERS
<input type="checkbox"/> LIABILITY		<input type="checkbox"/> 28 USC 2255	<input type="checkbox"/> LITIGATION	<input type="checkbox"/> 871 IRS-THIRD PARTY	<input type="checkbox"/> 895 FREEDOM OF
<input type="checkbox"/> 196 FRANCHISE		<input type="checkbox"/> 530 HABEAS CORPUS	<input type="checkbox"/> 791 EMPL RET INC	<input type="checkbox"/> 26 USC 7609	<input type="checkbox"/> INFORMATION ACT
		<input type="checkbox"/> 535 DEATH PENALTY	<input type="checkbox"/> SECURITY ACT		<input type="checkbox"/> 896 ARBITRATION
		<input type="checkbox"/> 540 MANDAMUS & OTHER			<input type="checkbox"/> 899 ADMINISTRATIVE
REAL PROPERTY	<input type="checkbox"/> 441 VOTING	PRISONER CIVIL RIGHTS	IMMIGRATION		<input type="checkbox"/> PROCEDURE ACT/REVIEW OR
<input type="checkbox"/> 210 LAND	<input type="checkbox"/> 442 EMPLOYMENT	<input type="checkbox"/> 550 CIVIL RIGHTS	<input type="checkbox"/> 462 NATURALIZATION		<input type="checkbox"/> APPEAL OF AGENCY DECISION
<input type="checkbox"/> CONDEMNATION	<input type="checkbox"/> 443 HOUSING/	<input type="checkbox"/> 555 PRISON CONDITION	<input type="checkbox"/> APPLICATION		<input type="checkbox"/> 950 CONSTITUTIONALITY OF
<input type="checkbox"/> 220 FORECLOSURE	<input type="checkbox"/> ACCOMMODATIONS	<input type="checkbox"/> 560 CIVIL DETAINEE	<input type="checkbox"/> 465 OTHER IMMIGRATION		<input type="checkbox"/> STATE STATUTES
<input type="checkbox"/> 230 RENT LEASE &	<input type="checkbox"/> 445 AMERICANS WITH	<input type="checkbox"/> CONDITIONS OF CONFINEMENT			
<input type="checkbox"/> EJECTMENT	<input type="checkbox"/> DISABILITIES -				
<input type="checkbox"/> 240 TORTS TO LAND	<input type="checkbox"/> EMPLOYMENT				
<input type="checkbox"/> 245 TORT PRODUCT	<input type="checkbox"/> 446 AMERICANS WITH				
<input type="checkbox"/> LIABILITY	<input type="checkbox"/> DISABILITIES -OTHER				
<input type="checkbox"/> 290 ALL OTHER	<input type="checkbox"/> 448 EDUCATION				
<input type="checkbox"/> REAL PROPERTY					

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.?
IF SO, STATE:

DEMAND \$ _____ OTHER _____ JUDGE _____ DOCKET NUMBER _____

Check YES only if demanded in complaint

JURY DEMAND: ☐ YES ☐ NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

- ☐ 1 Original Proceeding
 ☒ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from (Specify District)
 ☐ 6 Multidistrict Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge Judgment
- ☒ a. all parties represented
 ☐ b. At least one party is pro se.

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

IF DIVERSITY, INDICATE CITIZENSHIP BELOW.

- ☐ 1 U.S. PLAINTIFF
 ☐ 2 U.S. DEFENDANT
 ☐ 3 FEDERAL QUESTION (U.S. NOT A PARTY)
 ☒ 4 DIVERSITY

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF <input type="checkbox"/> 3 <input type="checkbox"/> 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF <input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5
CITIZEN OF ANOTHER STATE	<input type="checkbox"/> 2 <input type="checkbox"/> 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	<input type="checkbox"/> 4 <input type="checkbox"/> 4	FOREIGN NATION	<input type="checkbox"/> 6 <input type="checkbox"/> 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

Diego B. Fernandez
 1594 Route 9W
 Highland Falls, NY 10928
 County of Orange

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

Philadelphia Indemnity Insurance Company
 One Bala Plaza, Suite 100
 Bala Cynwyd, PA 19004

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ MANHATTAN
 (DO NOT check either box if this a PRISONER PETITION/PRISONER CIVIL RIGHTS COMPLAINT.)

DATE Apr. 5, 2016 SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

☐ NO
☒ YES (DATE ADMITTED Mo. 03 Yr. 92)
 Attorney Bar Code #CB4725

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

Ruby J. Krajick, Clerk of Court by _____ Deputy Clerk, DATED _____.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DIEGO B. FERNANDEZ,

Plaintiff,

NOTICE OF REMOVAL

- against -

PHILADELPHIA INDEMNITY INSURANCE
COMPANY,

Defendant.

-----X

Defendant, PHILADELPHIA INDEMNITY INSURANCE COMPANY (“PIIC”), hereby files this Notice of Removal of the above-described action, removed from the Supreme Court of the State of New York, Orange County, Index Number EF001171-2016, and all claims and causes of action therein, to the United States District Court for the Southern District of New York, as provided by Title 28, U.S. Code, Section 1446 *et. seq.*, and Rule 11. The removing Defendant applies for the purposes of removal only and for no other purposes and reserves all rights, claims and defenses of any nature whatsoever, including but not limited to defenses related to service of process, jurisdiction and venue, and state as follows:

1. PIIC is the only named defendant in the above-entitled action.
2. At all times relevant, PIIC is organized and exists under the laws of, and has its principal place of business in the Commonwealth of Pennsylvania.
3. At all times relevant, Plaintiff DIEGO B. FERNANDEZ was and still is an individual having his residence and domicile in the State of New York, County of Orange.
4. On or about February 22, 2016, plaintiff filed the instant action against PIIC in the Supreme Court of the State of New York, Bronx County, Index No. EF001171-2016, and it is

now pending in that Court. A copy of the Summons and Complaint is annexed hereto as Exhibit A.

5. In the action, Plaintiff seeks monetary damages in the amount of \$164,900, representing PIIC's alleged contractual obligation to Plaintiff under a Policy of Insurance No. GD20063864-004, plus interests, costs, and disbursements.

6. The Summons and Complaint was served on PIIC on or about March 18, 2015.

7. PIIC has not yet interposed an Answer to the action for money damages.

8. The United States District Court for the Southern District of New York has jurisdiction by reason of the diversity of citizenship of the parties pursuant to 28 U.S.C.A. §1332.

9. Plaintiff is now, and was at the time the state action was commenced, an individual having his residence and domicile in the State of New York, County of Orange.

10. PIIC is now, and at the time the state action was commenced, a citizen of the Commonwealth of Pennsylvania.

11. No change of citizenship of parties has occurred since the commencement of this action.

12. This is an insurance coverage action.

13. The matter in controversy exceeds, exclusive of costs and disbursements, the sum or value of \$75,000.00.

14. PIIC is not a citizen of the state in which the action was brought.

15. A copy of all process and pleadings served upon PIIC are annexed as Exhibits A and B.

16. PIIC expressly reserves the right to raise all defenses and objections to the state court action after its removal to the United States District Court for the Southern District of New York.

17. PIIC will give written notice of the filing of this notice as required by 28 U.S.C.A. §1446(d).

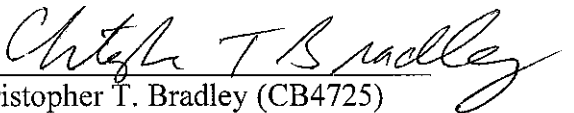
18. PIIC will file a copy of this notice with the clerk of the New York State Supreme Court, Orange County, as required by 28 U.S.C.A. §1446(d).

For all the above stated reasons, PIIC requests that the Court grant the relief requested herein.

Dated: New York, New York
April 5, 2016

Respectfully Submitted,

By:


Christopher T. Bradley (CB4725)
MARSHALL CONWAY & BRADLEY, P.C.
Attorneys for Defendant
PHILADELPHIA INDEMNITY INSURANCE
COMPANY
45 Broadway, Suite 740
New York, New York 10006
(212) 619-4444
File No.: 36-8931

TO: George J. Calcagnini, Esq.
Attorney for Plaintiff
DIEGO B. FERNANDEZ
376 Route 202
Somers, NY 10589
(914) 277-2255

Clerk of the Court
New York State Supreme Court, Orange County
285 Main Street
Goshen, NY 10924

Index of Documents Filed in State Court Action

- A. Plaintiff's Summons and Complaint, Supreme Court Orange County, State of New York, Index No. EF001171-2016.
- B. Affirmation/Affidavit of Service, March 18, 2016.

Exhibit A



NYSCEF - Orange County Supreme Court
Confirmation Notice

This is an automated response for Supreme Court / Court of Claims cases. The NYSCEF site has received your electronically filed document(s) for:

Diego B Fernandez - v. - Philadelphia Indemnity Insurance Co

EF001171-2016

Documents Received on 02/22/2016 10:52 AM

Doc #	Document Type	Motion #
1	SUMMONS + COMPLAINT Does not contain an SSN or CPI as defined in 202.5(e) or 206.5(e)	

Filing User

Name:	GEORGE J CALCAGNINI		
Phone #:	914-277-2255	E-mail Address:	gcalcagnin@aol.com
Fax #:	914-277-2299	Work Address:	376 Route 202 Somers, NY 10589

E-mail Notifications

An e-mail notification regarding this filing has been sent to the following address(es) on 02/22/2016 10:52 AM:

CALCAGNINI, GEORGE J - gcalcagnin@aol.com

NOTE: If submitting a working copy of this filing to the court, you must include as a notification page firmly affixed thereto a copy of this Confirmation Notice.

Annie Rabbitt, County Clerk

Phone: (845) 291-2690 Fax: 845-291-2691 (fax) Website: <http://www.orangecountygov.com/content/124/861/>

NYSCEF Resource Center - EFile@nycourts.gov

Phone: (646) 386-3033 Fax: (212) 401-9146 Website: www.nycourts.gov/efile

FILED: ORANGE COUNTY CLERK 02/22/2016 10:52 AM

NYSCEF DOC. NO. 1.

INDEX NO. EF001171-2016
RECEIVED NYSCEF: 02/22/2016

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

DIEGO B. FERNANDEZ,

Plaintiff,

-against-

PHILADELPHIA INDEMNITY
INSURANCE COMPANY,

Defendant.

To the above named Defendant

Index No. EF001171-2016

Date purchased

2/22/16

Plaintiffs designates

Orange

County as the place of
trial.

The basis of the venue is
Plaintiff's residence

*Summons
with Notice*

Plaintiffs resides at
1594 Route 9W
Highland Falls, NY
County of Orange

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated, February 22, 2016


GEORGE J. CALCAGNINI
Attorney for Plaintiff
Office and Post Office Address
376 Route 202
Somers, NY 10589
(914) 277-2255

Notice: The nature of this action is to recover on an automobile theft insurance policy issued by defendant.

The relief sought is an Injunction and a money judgment in the sum of \$164,900 with interest thereon from July 1, 2014, together with the costs and disbursements of this action.

Upon your failure to appear, judgment will be taken against you by default for a money judgment the sum of \$164,900 with interest from July 1, 2014, together with the costs and disbursements of this action.

Defendant's address:

Philadelphia Indemnity Insurance Company
585 Stewart Avenue
Suite 500
Garden City, NY 11530

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

DIEGO B. FERNANDEZ,

Plaintiff,

COMPLAINT

-against-

Index No.

PHILADELPHIA INDEMNITY
INSURANCE COMPANY,

Defendant.

The plaintiff above named, by his attorney, GEORGE J. CALCAGNINI, ESQ.,
complaining of the defendant, alleges as follows:

1. The plaintiff is a resident of the State of New York and County of Orange.
2. Upon information and belief, at all times hereinafter mentioned, the defendant,
PHILADELPHIA INDEMNITY INSURANCE COMPANY, was and still is a corporation organized
and existing under and by virtue of the laws of the State of Pennsylvania, and at all time
hereinafter mentioned was engaged in business in the State of New York as an insurance
company, insuring against certain risks, among them being to pay for loss of automobiles caused
by theft or larceny.
3. That on or about November 20, 2013, the defendant issued and delivered to the
plaintiff, its automobile insurance policy of insurance, the policy being Policy No. GD20063864-
004 and in printed form as drawn and prepared by the defendant and designated therein as an
Agreed Value Collector Vehicle Policy insuring against loss caused by the theft of the plaintiff's
vehicle referred to in the said policy as a 1962 Chevrolet Impala (VIV 21847S315445), among
other vehicles.

4. That in and by that policy, the defendant, in consideration of the stipulations in the policy named and the premium duly paid to the defendant by the plaintiff, did insure the plaintiff from November 20, 2013 to November 20, 2014, to an amount not exceeding the \$125,000 agreed value of the said 1962 Chevrolet Impala automobile and its equipment against the hazard of loss by theft or larceny.

5. Prior to issuing an amendment of the said insurance policy to the plaintiff, the defendant did have the plaintiff's 1962 Chevrolet Impala automobile inspected by an expert in the valuation of such automobiles and did reach an agreement with the plaintiff that the defendant would insure the vehicle for an agreed value of \$165,000 even though the fair market value of the vehicle was well in excess of \$165,000.

6. Thereupon, the defendant issued an amendment of the said Agreed Value Collector Vehicle Policy raising the agreed value of the plaintiff's 1962 Chevrolet Impala automobile to \$165,000, which amount the defendant promised to pay to the plaintiff, less a \$100 deductible, in the event that the said vehicle was stolen.

7. That at the time of the issuance and delivery of the policy and the amendment thereof and continuously from then to the time of the hereinafter mentioned theft and loss of the automobile and its equipment, the plaintiff was the owner of the 1962 Chevrolet Impala automobile and its equipment, all of which was well known to the defendant at the time of its issuance of the policy and amendment thereof, and that the policy was the only contract insuring the plaintiff against hazard by theft or larceny on the said automobile and its equipment which the plaintiff had at the time of the issuance of the policy or which he thereafter made or procured thereon and that the plaintiff at no time during the time of the policy had any similar insurance.

8. That on or about July 1, 2014 the plaintiff discovered that the said 1962 Chevrolet Impala automobile had been stolen from a locked garage at his residence located at 1594 Route 9W, Highland Falls, New York, by some unknown third person.

9. The plaintiff promptly notified the police of the theft, but the vehicle has never been recovered.

10. Thereafter, the plaintiff notified the defendant of the theft of the vehicle and filed his sworn proof of loss on the form as required by the defendant and plaintiff has otherwise complied with all the terms and conditions of the policy on his part to be performed in connection with his claim for payment of the agreed value of the vehicle pursuant to the terms of the insurance policy issued by the defendant, as amended.

11. The plaintiff did fully cooperate in the defendant's investigation of the claims and did provide the defendant with all information reasonably requested by the defendant.

12. Despite the foregoing, the defendant did breach the contractual obligations imposed on the defendant under policy of insurance, as amended, issued by the defendant to the plaintiff in that the defendant has failed and refused to pay the plaintiff the \$165,000 agreed value of the said 1962 Chevrolet Impala automobile, less the \$100 deductible.

13. The plaintiff has performed all obligations on his part to be performed pursuant to the contract of insurance, as amended, with the defendant.

14. The defendant has failed and refused to pay the plaintiff the \$165,000 agreed value of his 1962 Chevrolet Impala automobile, less the \$100 deductible.

15. Upon information and belief on July 1, 2014, that the fair, reasonable, and actual cash value of the 1962 Chevrolet Impala automobile was and is far in excess of the \$165,000 agreed value of the vehicle.

16. By virtue of the foregoing, the plaintiff has been damaged in the sum of
\$164,900

WHEREFORE, plaintiff demands judgment against the defendant in the sum of
\$164,900 with interest thereon from July 1, 2014 together with the costs and disbursements of
this action and for such other and further relief as may be just and proper.

Dated: February 22, 2016



GEORGE J. CALCAGNINI
Attorney for Plaintiff
Office & Post Office Address
376 Route 202
Somers, New York 10589
(914) 277-2255

Exhibit B



NYSCEF - Orange County Supreme Court
Confirmation Notice

This is an automated response for Supreme Court / Court of Claims cases. The NYSCEF site has received your electronically filed document(s) for:

Diego B Fernandez - v. - Philadelphia Indemnity Insurance Co

EF001171-2016

Documents Received on 03/27/2016 09:59 AM

Doc #	Document Type	Motion #
2	AFFIRMATION/AFFIDAVIT OF SERVICE Does not contain an SSN or CPI as defined in 202.5(e) or 206.5(e)	

Filing User

Name:	GEORGE J CALCAGNINI		
Phone #:	914-277-2255	E-mail Address:	gcalcagnin@aol.com
Fax #:	914-277-2299	Work Address:	376 Route 202 Somers, NY 10589

E-mail Notifications

An e-mail notification regarding this filing has been sent to the following address(es) on 03/27/2016 09:59 AM:

CALCAGNINI, GEORGE J - gcalcagnin@aol.com

NOTE: If submitting a working copy of this filing to the court, you must include as a notification page firmly affixed thereto a copy of this Confirmation Notice.

Annie Rabbitt, County Clerk

Phone: (845) 291-2690 Fax: 845-291-2691 (fax) Website: <http://www.orangecountygov.com/content/124/861/>

NYSCEF Resource Center - EFile@nycourts.gov

Phone: (646) 386-3033 Fax: (212) 401-9146 Website: www.nycourts.gov/efile

YSCEF DOC NO: NEW YORK

INDEX NO: RECEIVED NYSCEF: 03/27/201

Date Filed: 2/22/2016

COURT: SUPREME COURT ORANGE COUNTY

Plaintiff(s)/Petitioner(s)

DIEGO B. FERNANDEZ

Defendant(s)/Respondent(s)

Vs.
PHILADELPHIA INDEMNITY INSURANCE COMPANY

STATE OF PENNSYLVANIA

SS

COUNTY OF: BUCKS

The undersigned deponent, being duly sworn deposes and say that said deponent is not a party to this action, is over 18 years of age and resides in the State of PENNSYLVANIA Deponent served the within process as follows:
 Process Served: NOTICE REGARDING AVAILABILITY OF ELECTRONIC FILING, SUMMONS AND COMPLAINT

Party Served:

PHILADELPHIA INDEMNITY INSURANCE COMPANY

At Location:

ONE BALA PLAZA, STE. 400 Three Bala Plaza, Suite 400BALA CYNWYD, PA 19004Date of Service 3/18/16Time of service 4:32pm☒ Check boxes that apply to this service:

#1, INDIVIDUAL

By delivering a true copy of each to said recipient personally; deponent knew the person served to be the person described as said person therein.



#2, CORPORATION

By delivering to and leaving with Nora Howard and that deponent knew the person so served to be the Paralegal of the corporation and authorized to accept service..

#3, SUITABLE AGE PERSON

By delivering to and leaving with _____ a person of suitable age and discretion. Said premises is recipient's [] actual place of business [] dwelling house (usual place of abode) within the state.



#4, AFFIXING TO DOOR

By affixing a true copy of each to the door of said premises, which is recipient's [] actual place of business [] dwelling house (usual place of abode) within the state.



#5, MAILING COPY

On _____, deponent completed service under the last two sections by depositing a copy of the _____ to the above address in a First Class postpaid properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of _____.

Deponent was unable, with due diligence to find recipient or a person of suitable age and discretion, having called thereat

on the _____	day of _____	at _____
on the _____	day of _____	at _____
on the _____	day of _____	at _____
on the _____	day of _____	at _____



#6, NON-SERVICE

After due search, careful inquiry and diligent attempts, I have been unable to effect process upon the person/entity being served because of the following: [] Unknown Address [] Evading
 [] Moved left no forwarding [] Address does not exist
 [] Other _____



#7, DESCRIPTION

A description of the Defendant, or other person served, or spoken to on behalf of the Defendant is as follows:

Sex: F Color of Skin: white Color of Hair: brown Age: 20s Height: 5'4"
 Weight: 115 Other Features: _____



#8, WITNESS FEES

\$ _____ the authorizing traveling expenses and one day's witness fee was paid (tendered) to the recipient.



#9, MILITARY SERVICE

Deponent asked person spoken to whether the recipient was presently in military service of the United States Government or on active duty in the military service in the State of New York and was informed _____ was not.

Sworn to before me on 3/22/16James Robinson
James Robinson

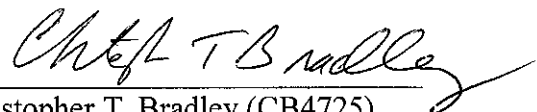
COMMONWEALTH OF PENNSYLVANIA
 NOTARIAL SEAL
 JAMILA JAMISON, Notary Public
 City of Philadelphia, Phila. County
 My Commission Expires February 13, 2020

Certification

Defendant, PHILADELPHIA INDEMNITY INSURANCE COMPANY, by and through their attorney, Christopher T. Bradley, of the firm MARSHALL CONWAY & BRADLEY, P.C. hereby declare that they have provided all other parties in the action, including the New York State Supreme Court, Orange County, with the notice of removal and attachments being filed with this Court.

Dated: New York, New York
April 5, 2016

Respectfully Submitted,

By: 
Christopher T. Bradley (CB4725)
MARSHALL CONWAY &
BRADLEY, P.C.
Attorneys for Defendant/Removing Party
PHILADELPHIA INDEMNITY
INSURANCE COMPANY
45 Broadway, Suite 740
New York, New York 10006
(212) 619-4444
File No.: 36-8931

GUY P. DAUERTY
Notary Public, State of New York
No. 01DA4934850
Qualified in New York County
Commission Expires August 9, 2018

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DIEGO B. FERNANDEZ,

Plaintiff,

- against -

PHILADELPHIA INDEMNITY INSURANCE
COMPANY,

Defendant.

-----X

CIVIL COVER SHEET and NOTICE OF REMOVAL

Christopher T. Bradley (CB4725)
MARSHALL CONWAY & BRADLEY, P.C.
Attorneys for Defendant
45 Broadway – Suite 740
New York, New York 10006
(212) 619-4444
File No.: 36-8931